



TEXAS GENERAL LAND OFFICE

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PRESS RELEASE

Patterson wins huge lawsuit against CEMEX

Multi-national cement giant failed to pay Texas schoolchildren

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AUSTIN — The schoolchildren of Texas today won a huge appeal against CEMEX over the ownership of building materials mined from Permanent School Fund lands. Damages in the case could be worth more than half a billion dollars.

Texas Land Commissioner Jerry Patterson took CEMEX to court in 2009, alleging the Mexican-based multinational corporation failed to pay Texas schoolchildren for mining millions of tons of minerals from McKelligon Canyon, located in the Franklin Mountains just north of downtown El Paso.

"The gist of this case is simple: You just can't take what's not yours without a fight in Texas," Patterson said. "As Texas Land Commissioner, it's my job to look out for the school kids' and to make sure they get their fair share. I'm very pleased about today's outcome."

Since the 1940s, CEMEX and its predecessors have mined and extracted the minerals in the McKelligon Canyon mine. The state's Permanent School Fund owns all minerals in McKelligon Canyon. Texas never authorized CEMEX to take its minerals.

The Court of Appeals for the Eighth District, in El Paso, sent the case back to the trial court to determine just how much CEMEX owes to the school children of Texas. Justice Guadalupe Rivera's opinion found that under the Mining Act of 1895, "title to all deposits of granite, limestone, gravel, sand and any other mineral substances of whatever kind or character having commercial value located on the McKelligon Canyon lands as herein identified are reserved to the State of Texas."

Understanding the case requires understanding Texas history. When Texas won its independence from Mexico, in 1836, the young republic's constitution required that vacant or unappropriated land remain in the public domain. When Texas joined the Union, those vacant lands remained in the state's public domain. The surface of most of the vacant lands was slowly sold off for nominal amounts and used by the original purchasers for grazing, agricultural and related purposes. The state, however, retained all valuable materials on, in and under the state's lands for the benefit of public education.

These Permanent School Fund lands in El Paso's McKelligon Canyon were sold under the Land Sales Acts of 1895 and 1907, which expressly state all mineral wealth on the land remained property of the school fund.

The roots of this Texas law trace back to Spanish law, which allowed the King of Spain to issue land grants that essentially allowed the use of the land for settlement, grazing or farming but reserved any materials of value on or under the land to the sovereign. Mexico was under Spanish real estate law as was Texas when it was a Mexican territory.

The Texas Permanent School Fund, worth about \$25 billion, is made up of stocks, bonds and real estate investments. The Texas General Land Office leases surface acreage on behalf of the school fund, and charges royalties for the right to produce its mineral wealth, including oil, gas and other minerals. Earnings from the fund help Texas public schools, from kindergarten through the 12th grade, using non-tax revenues that help offset local property taxes.

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